## UNITED STATES DISTRICT COURT DISTRICT OF NEVADA

| MICHAEL S. SPENCER,  | )           | 3:07-cv-00635-LRH-VPC    |
|--|-------------|--------------------------|
| Plaintiff,<br>v.   | )<br>)<br>) | MINUTES OF THE COURT     |
| GLEN WHORTON, et al.   | )<br>)<br>) | August 25, 2010          |
| Defendants.  | )<br>)      |                          |
| PRESENT: THE HONORABLE VALERIE P. COOKE, U.S. MAGISTRATE JUDGE |             |                          |
| DEPUTY CLERK: LIS  | A MANN      | REPORTER: NONE APPEARING |
| COUNSEL FOR PLAINTIFF(S): NONE APPEARING                       |             |                          |
| COUNSEL FOR DEFENDANT(S): <u>NONE APPEARING</u>                |             |                          |
|  |             |                          |

## MINUTE ORDER IN CHAMBERS:

On May 14, 2010, defendants filed a motion for summary judgment (#207), and plaintiff opposed (#236). On July 19, 2010, defendants submitted their reply (#244). Currently before the court are several issues concerning defendants' reply.

Defendants' reply contained seven accompanying exhibits (Exhibits A-G), one of which was submitted under seal (Exhibit B). Defendants concurrently filed a motion to seal Exhibit B (#243) as well as a notice of filing a document under seal (#246). The court has granted defendants motion and filed the document under seal (#265).

In a July 19, 2010 hearing, the court granted plaintiff's request to "drop" his claims for compensatory and punitive relief and allowed plaintiff to proceed solely on injunctive relief (#247).

On July 27, 2010, defendants sought leave of court to file a supplemental brief (#251) and the court granted their request (#252). The court allowed plaintiff a limited response to defendants' supplemental brief. *Id.* Defendants filed the supplemental brief, which effectively called into question the court's jurisdiction over the case in light of plaintiff's decision to solely pursuit of injunctive relief.

In light of these issues, the court recently requested both parties to submit contemporaneously briefs addressing the court's jurisdiction (#264). Pursuant to the court's order, the parties have been limited to the same page limits in their briefing. *Id*.

On August 4, 2010, plaintiff filed a motion for leave to file a sur-reply (#253). Plaintiff argued that the amount of new material in defendants' reply required a response on his part.

On August 11, 2010, plaintiff filed an emergency motion in which he notifies the court of his inability to review Exhibit B, requests a stay of proceedings, and requests an order to view the sealed Exhibit B in defendants' reply (#256, #257) (docket entries at #256 and #257 are identical).

As noted above, the court has recently requested the parties to submit briefing as to this court's jurisdiction. The court must address these jurisdictional questions apart from any issues raised in the course of the previously filed motion for summary judgment, its response, and its reply.

Therefore, plaintiff's motion for leave to file a sur-reply (#253) and plaintiff's emergency motion (#256, #257) are **DENIED** without prejudice with leave to renew such motions if necessary.

By:\_\_\_

IT IS SO ORDERED.

LANCE S. WILSON, CLERK

Deputy Clerk